

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Mortgage Electronic Registration  
Systems, Inc., as nominee for  
CitiMortgage, Inc.,

Civil No. 08-5220 (DWF/FLN)

Plaintiff,

v.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER FOR JUDGMENT**

Christopher S. Sheldon; Citibank;  
Wells Fargo Bank, N.A.; United States  
of America; XYZ Corporation; ABC  
Partnership; John Doe; and Mary Roe,  
whose true names are unknown to

Defendants.

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Sean O. Skrypek, Esq., and Steven R. Little, Esq., Coleman Hull & van Vliet, PLLP,  
counsel for Plaintiff.

Ana H. Voss, Assistant United States Attorney, United States Attorney's Office, counsel  
for Defendant United States of America.

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The above-entitled matter came before the undersigned on November 17, 2009  
pursuant to a settlement stipulation between Plaintiff Mortgage Electronic Registration  
Systems Inc., as nominee for CitiMortgage, Inc. ("MERS") and Defendant United States  
of America ("USA").

Based on the files, records and proceedings herein, the Court hereby makes the  
following:

## FINDINGS OF FACT

1. This action relates to real estate in Hennepin County, Minnesota located at 7128 Gleason Road, Edina, Minnesota and legally described as:

Parcel 1: That part of Lot 1, Block 3, Braemar Hills Fourth Addition, embraced within the East 189 feet of the Northeast  $\frac{1}{4}$  of Section 7, Township 116, Range 21, according to the plat thereof. (Torrens);

Parcel 2: Lot 1, Block 3, Braemar Hills Fourth Addition except for that embraced within the East 189 feet of the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 7, Township 116, Range 21, according to the plat thereof. (Abstract).

(the "Property").

2. On September 19, 2005, Defendant Christopher Sheldon, as security for financing the purchase of the Property, executed a mortgage in the original principal amount of \$502,500 in favor of MERS, as mortgagee, which was recorded with the Hennepin County Recorder on September 20, 2005 as document number 8658239 (the "MERS Mortgage").

3. The MERS Mortgage executed by the parties contained a typo in the legal description of Parcel 2 and incorrectly referenced the "Northeast  $\frac{1}{4}$  of the Northeast **14** of Section 7" rather than the "Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 7."

4. The United States has an interest in the Property pursuant to a federal tax lien that was assessed on May 22, 2006, in the amount of \$39,062.89. The United States properly recorded a Notice of Federal Tax Lien in the Office of the Hennepin County Recorder on December 11, 2006 as document number 8905640 (the "Federal Tax Lien").

As of September 21, 2009, the value of the Federal Tax Lien was approximately \$42,000.

Based on the legal description of the MERS Mortgage, the United States claims the Federal Tax Lien has priority over the MERS Mortgage. Plaintiff claims the MERS Mortgage, as drafted, is a perfected mortgage with priority over the Federal Tax Lien.

5. The parties desire to avoid further costs of litigation among the parties and further desire to fully and finally settle and resolve the issues raised in this action with respect to the claims by and between the Plaintiff and the United States.

6. None of the other Defendants have filed an answer or otherwise appeared in this action.

### **CONCLUSIONS OF LAW**

1. Plaintiffs are entitled to reformation of their mortgage dated September 19, 2005 and recorded with the Hennepin County Recorder on September 20, 2005 as document number 8658239 to include the following legal description of the Property:

Parcel 1: That part of Lot 1, Block 3, Braemar Hills Fourth Addition, embraced within the East 189 feet of the Northeast  $\frac{1}{4}$  of Section 7, Township 116, Range 21, according to the plat thereof. (Torrens);

Parcel 2: Lot 1, Block 3, Braemar Hills Fourth Addition except for that embraced within the East 189 feet of the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 7, Township 116, Range 21, according to the plat thereof. (Abstract).

2. As between Plaintiffs and Defendant USA, Plaintiffs' mortgage dated September 19, 2005 and recorded with the Hennepin County Recorder on September 20, 2005 as document number 8658239 as reformed as set forth in paragraph 1 is a valid,

enforceable, and fully perfected lien against the Property according to its terms, with priority over the Federal Tax Lien filed for record on December 11, 2006 as document number 8905640.

### **ORDER FOR JUDGMENT**

1. Judgment is hereby ordered consistent with the foregoing Conclusions of Law.

2. The Hennepin County, Minnesota Recorder and Registrar of Titles shall accept a certified copy of this Order for recording against the real property described in Paragraph 1 of these Findings of Fact.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: November 17, 2009

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge